

## Message Text

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ACTION L-02

INFO OCT-01 EUR-12 ISO-00 SCA-01 JUSE-00 /016 W

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R 061640Z JUN 75

FM AMEMBASSY PARIS

TO SECSTATE WASHDC 0130

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E.O. 11652: N/A

TAGS: CPRS, PFOR, FR

SUBJECT: HOLDER-KERKOW EXTRADITION

REF: STATE 121032

1. WE HAVE GIVEN CAREFUL STUDY TO DRAFT PROTEST NOTE SUGGESTED REFTEL, AND WE HAVE STRONG OBJECTIONS TO PRESENTING IT AS DRAFTED. IN OUR OPINION, THE NOTE WOULD ENGAGE US IN A FUTILE EXCHANGE WITH THE FRENCH OVER POINTS OF LAW AND PRACTICE ON WHICH FRENCH POLITICAL TRADITIONS AND JURISPRUDENCE DIFFER MARKEDLY FROM OUR OWN. SUCH AN EXCHANGE WOULD BE FUTILE IN THE IMMEDIATE CASE BECAUSE THE COURT DECISION ON HOLDER/KERKOW IS FINAL. MOREOVER, THE BASIC POINTS AT ISSUE HAVE BEEN REPEATEDLY DISCUSSED WITH FRENCH OFFICIALS AT VARIOUS LEVELS AND IN SEVERAL MINISTRIES OVER THE PAST FEW MONTHS (PARIS 7588, 8135, 8153, 8856, 10895). AT A HIGHER LEVEL, THE AMBASSADOR HAS EXPRESSED TO MINISTER OF JUSTICE LECANUET OUR DISAPPOINTMENT OVER THE HANDLING OF THE CASE BY THE AVOCAT GENERAL AND OUR CONCERN OVER THE IMPLICATIONS OF THE DECISION FOR OTHER HIJACKING CASES (PARIS 10263).

2. AT THIS POINT, TO FOLLOW UP OUR PREVIOUS DISCUSSIONS WITH A NEGATIVE-TONED PROTEST NOTE ATTACKING A COURT DECISION WHICH CANNOT BE ALTERED WOULD ONLY ELICIT A VIGOROUS DEFENSE OF FRENCH POSITION. IT WOULD NOT, HOWEVER, ADVANCE OUR BASIC AIMS OF IMPROV-  
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ING COOPERATION ON ANTI-HIJACKING MEASURES, AND

IMPROVING THE IMPLEMENTATION OF ARTICLE VI OF THE SUPPLEMENTAL CONVENTION. WE PROPOSE INSTEAD A NOTE WHICH WOULD AVOID CONTINUING THE DEBATE ON LEGAL POINTS ON WHICH WE KNOW THE FRENCH POSITION AND OUR OWN ARE IRRECONCILABLE, WHILE EXPRESSING OUR CONCERN OVER THE IMPLICATIONS OF THE HOLDER/KERKOW DECISION AND CALLING FOR FURTHER DISCUSSIONS ON ARTICLE VI. (SEE REVISED DRAFT IN SEPTTEL).

3. AS FOLLOW-UP TO FORMAL NOTE, WE PROPOSE TO EXPLORE INFORMALLY WITH QUAI AND MINISTRY OF JUSTICE WAYS IN WHICH WE CAN OBTAIN RECIPROCITY UNDER ARTICLE VI OF THE SUPPLEMENTAL CONVENTION - I.E., EFFECTIVE REPRESENTATION OF USG BEFORE THE COURT IN EXTRADITION CASES. DEPENDING ON THE OUTCOME OF PRELIMINARY TALKS, THE DEPARTMENT MAY WISH TO SCHEDULE MORE FORMAL DISCUSSIONS, AS SUGGESTED IN FINAL PARAGRAPH OF ITS DRAFT NOTE. WE WILL, OF COURSE, CONTINUE TO FOLLOW CLOSELY THE PROSECUTION OPENED AGAINST HOLDER AND KERKOW FOR HIJACKING UNDER FRENCH LAW, AND TO MAKE CLEAR OUR VIEW THAT OUR MUTUAL INTEREST IN DETERRING HIJACKING REQUIRES EFFECTIVE PURSUIT OF THIS CASE.  
RUSH

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** AIRCRAFT HIJACKING, EXTRADITION AGREEMENTS, DIPLOMATIC PROTESTS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 06 JUN 1975  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** MorefiRH  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1975PARIS14596  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
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**Office:** ACTION L  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 2  
**Previous Channel Indicators:** n/a  
**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** 75 STATE 121032  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** MorefiRH  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 14 MAY 2003  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <14 MAY 2003 by MartinML>; APPROVED <15 MAY 2003 by MorefiRH>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
06 JUL 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** HOLDER-KERKOW EXTRADITION  
**TAGS:** CPRS, PFOR, FR, US, (HOLDER, WILLIE ROGER), (KERKOW, CATHERINE MARIE)  
**To:** STATE  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006